

NORTH YORKSHIRE COUNTY COUNCIL

PLANNING AND REGULATORY FUNCTIONS COMMITTEE SUB- COMMITTEE

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Minutes of the meeting held on 26 November 2010 at Innovate Business Centre, Colburn Business Park, Colburn, Catterick Garrison, DL9 4QJ

PRESENT:-

County Councillors Bill Hoult, Robert Heseltine, Dave Peart (as substitute for County Councillor Ron Haigh) and Cliff Trotter.

Apologies were received from County Councillors John Blackburn and Ron Haigh.

Four members of the public were present.

12. APPOINTMENT OF CHAIRMAN AND VICE-CHAIRMAN FOR MEETING

RESOLVED –

That for the purposes of this meeting County Councillor Robert Heseltine be appointed Chairman and County Councillor Bill Hoult be appointed Vice-Chairman.

COUNTY COUNCILLOR ROBERT HESELTINE IN THE CHAIR

COPIES OF ALL DOCUMENTS CONSIDERED ARE IN THE MINUTE BOOK

13. MINUTES

RESOLVED –

That the minutes of the meeting held on 8 October 2010 , having been printed and circulated, be taken as read and be confirmed and signed by the Chairman as a correct record.

14. PUBLIC QUESTIONS OR STATEMENTS

The Assistant Chief Executive (Legal and Democratic Services) reported that, other than those persons who had indicated they wished to speak on the application, and would do so at the time of the consideration of that application, there were no questions or statements from members of the public.

15. **APPLICATION TO ADD A FOOTPATH TO THE DEFINITIVE MAP AND STATEMENT FROM AGRICOLA BRIDGE ALONG AND THE RIVERSIDE AT BROMPTON ON SWALE.**

CONSIDERED –

The report of the Corporate Director, Business and Environmental Services advising Members of an application for a Definitive Map Modification Order the effect of which if confirmed would be to add a footpath to the Definitive Map and Statement from Agricola Bridge along the riverside at Brompton on Swale. The report requested Members to authorise the making of a Definitive Map Modification Order.

Penny Noake, Definitive Map Team Leader, presented the report to Members. She explained the Committee's responsibilities in deciding whether to make an order and also the legal issues in respect of the application outlining Sections 53 of the Wildlife and Countryside Act 1981 and 31 of the Highways Act 1981.

Penny Noake provided a detailed summary of the report highlighting the following issues:

- The application had been made by Brompton on Swale Parish Council on 12 July 2006.
- Objections to the application had been received from the land owner and tenants.
- The criteria had been met to authorise a Definitive Map Modification Order.
- In total there had been 59 evidence of use forms submitted and 57 of those were valid. 10 people stated they had been given permission to use the path; therefore these were withdrawn from the supporting evidence.
- 20 of the remaining 47 people stated that they had not been stopped, challenged or prevented from using the path. 7 people stated they had been stopped and a following 19 people since 2004.
- The reasons given for using the claimed route were walking the dog, exercise, recreation and as part of a longer walking route to Scorton and Catterick. These were all bona fide reasons for using a public right of way.
- Stockproof fencing had been put up around the edge of the field and stiles had been placed at either end of the field by the current owners, to allow access to the fishermen.
- In 2004 the tenants learnt that the Parish Council had been telling people that the path was public.
- The route was blocked in September 2004, after a walker's dog attacked one of the tenants' pygmy goats and it had to be put down.

Although there had been no historic evidence submitted with the application that showed a public right of way, it was still considered that there was sufficient evidence in place to suggest that there had been usage of the route in excess of the statutory period of 20 years. It was stated that this met the necessary criteria of the Wildlife and Countryside

Act 1981 and was therefore recommended that the Committee authorise the making of a Definitive Map Modification Order in respect of the route.

The Chairman invited Members of the public who had indicated they wished to speak on this matter to address the Committee.

Mr Frank Broughton, Brompton on Swale Parish Councillor, read out a statement from the Parish Council, in support of a public right of way on the riverside (A copy of the statement has been placed in the minute book).

A Member highlighted that within the report it stated that the landowner had been advised by the fencing contractor that he could get money from the Parish Council for the stiles, but the landowner could not recall any money being received. He queried if the Parish Council had a record of the money being paid. Mr Broughton stated that he was not aware of any money being paid or a record of it within the Parish Council books.

Mr Wiseman, Co-Owner of the land, addressed the Committee. He expressed several concerns against the recommendation to implement a public right of way. He stated that people did not just use the route for walking dogs or recreation, they had been using it as a short cut to access a bay near the river. Mr Wiseman also stated that he had received abuse when asking people to get off the land.

A Member asked if access to the bay could be restricted. Mr Wiseman explained that he had tried by erecting the fence but people had cut and tried to pull it down.

A Member queried the reason as to why a stock fence had been placed around the edge of the field. Mr Wiseman stated that a barbed wire and stock proof fence had been put in place to protect his animals, but unfortunately dogs still managed to get onto the land.

RESOLVED –

That the Committee authorise the Corporate Director, Business and Environmental Services to make a Definitive Map Modification Order for the route concerned to be shown on the Definitive Map as a public footpath, and in the event that formal objections to that Order are made, and are not subsequently withdrawn, to refer the Order to the Secretary of State for determination and in doing so to exercise powers delegated to him under the County Council's Constitution in deciding whether or not the County Council can support confirmation of the Order.

LB/ALJ